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It is now the rule that in all cases which are controlled by the construction and application of the Constitution of the United States, a direct appeal lies to the Supreme Court. *Carter v. Roberts*, 20 Sup. Ct. 713. In the present case the pleadings showed that the jurisdiction of the Federal Courts did not rest entirely upon constitutional construction. It was based on diverse citizenship. In view of this the decision of the Circuit Court of Appeals declining to take jurisdiction would seem to be unwarranted, and the more so since the original dispute was not one in which the parties demanded a construction of the United States Constitution. *New Orleans v. Benjamin*, 153 U. S. 411.

MASTER AND SERVANT—RESPONDEAT SUPERIOR—*Craven v. Bloomingdale*.—66 N. Y. Sup. 525.—Defendant's servant delivered goods to plaintiff which were bought from defendant. Said goods had a C. O. D. mark for an excessive amount. Plaintiff offered the right amount of the charge and refused to give up possession. *Held*, defendant's servant in having plaintiff arrested for theft, acted within the scope of his employment and bound his master in damages, said servant's employment being the driving of a delivery wagon and delivering goods.

The boundary line in nearly all jurisdictions is indistinct as to what constitutes the division between acts committed by a servant which are within and those without the scope of his employment. The present case seems an extreme one. In *Allen v. London, etc. Ry. Co.*, L. R., 62 B. 65, however, the same rule is announced, but in *Walton v. New York, etc. Co.*, 139 Mass. 556, a different doctrine is stated. See *Lubliner v. Tiffany & Co.*, 66 N. Y. Sup. 659.

MASTER AND SERVANT—CARE OF MASTER—*Sullivan v. Poor et al.*.—66 N. Y. Sup. 409.—Where an elevator was defective, but the proprietor had an inspector's certificate stating it to be safe, and plaintiff's husband was killed by such defect, *held*, no recovery.

MEASURE OF DAMAGES—DECEIT—*Sigafus v. Porter*, 21 Supreme Ct. 34.—In an action for \$1,000,000 damages for false representations as to the value of a mine, it was held that the measure of damages was the amount the person defrauded was actually out of pocket by reason of the fraud. Not the represented value minus the actual value, but the price paid minus the actual value. Justice Brown and Justice Peckam dissented.

The Court followed the rule of *Derry v. Peek*, 14 App. Cases 337. That is, actual loss by the deceit. The other rule, that the difference between the actual value and the representative value is the measure, is the rule laid down in *Morse v. Hutchins*, 102 Mass. 439.

MEASURE OF DAMAGES—NUISANCES—*VanSiclen v. City of New York*, 66 N. Y. Sup. 555.—Where defendant maintained a nuisance in the street in front of plaintiff's property, *held*, plaintiff's measure of damages, after abating the nuisance, was the diminished rental value of the property.

The usual rule in such cases is the market value of the property, *Colony Ry. Co. v. Evans*, 6 Gray (Mass.) 25, but the present case is strongly supported by *Francis v. Schoelkopf*, 53 N. Y. 152. See *Edg. Dam.* (eighth ed.) sec. 1203.

MUNICIPAL CORPORATIONS—GREATER NEW YORK CHARTER—CORPORATION COUNSEL—JUDGMENT—POWER TO CONFESS—*Bush v. O'Brien et al.* 58 N. E. 106 (N. Y.)—Suit in equity by a taxpayer, to restrain the collection of a judg-